

Serial No. 10/773,250

Docket No. 2270-002

**INTERVIEW SUMMARY**

Applicant wishes to thank Examiner for the telephone interview conducted February 8, 2007 regarding claim 1 and US patent 257,168 to Lape. Applicant presented an amendment to claim 1 which Examiner believed merely recited the operation of the module and that did not represent structural changes to overcome Lape. Lape was analyzed and the Examiner pointed out that claim 1 was open-ended and did not exclude other components from being present between the end supports. The Examiner further suggested that limitation of the vertical and horizontal members to being perpendicular would overcome the reference. Applicant believed that such a limitation was overly limiting. Agreement with respect to the claims was not reached.

**REMARKS**

Applicant has withdrawn claims 1-7 and 15-18. Applicant believes that withdrawal of these claims does not, in any way, prejudice Applicant's ability to continue prosecution of the subject matter of these claims in a continuation application filed before the closing of prosecution for the instant application.

Applicant continues prosecution of the subject matter of the claims withdrawn in this response in co-pending continuation application 11/746,791, filed May 10, 2007.

**Examiner has objected to claims 1, 9-11, 13 and 15-17 because of the following informalities:**

regarding claim 1, 9, 13 and 15, "the vertical and horizontal members" in the claims 1, 13 and 15, line 5-6 and claim 9, line 7, should be - the vertical member and the horizontal member – otherwise it reads as all the vertical members and the horizontal members of both supports are in one plane.

Serial No. 10/773,250

Docket No. 2270-002

Applicant has withdrawn claims 1 and 15 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Applicant has amended claims 9 and 13 as suggested by Examiner.

**regarding claim 1, --the -- needs to be inserted before "angle arms" and "like" in line 18 should be -- similar --.**

Applicant has withdrawn claim 1 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**regarding claims 2,3,9-11, 15 and 16, "like" in claims 1, line 5,, claim 3, lines 5,8,and 10, claim 9, lines 15-17, 19 and 20, claim 10, lines 4 and 5, claim 11, line 7, claim 15, lines 1,11,13 and 14 and claim 16, line 4, should be -- similar --.**

Applicant has withdrawn claims 2, 3, 15 and 16 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Applicant has amended claims 9-11 as suggested by Examiner.

**regarding claim 9, "two" in lines 15 and 16, should be -- three -- as the claim has not established two or more stackable fence modules, but rather three or more in line 3 and "unitary" in line 16 should be deleted; and**

Applicant has amended claim 9 as suggested by Examiner.

**Regarding claim 17, "support" in line 2 should be -- supports --.**

Applicant has withdrawn claim 17 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Serial No. 10/773,250

Docket No. 2270-002

**Double patenting**

**Applicant is advised that should claim 6 be found allowable, claim 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. Further applicant is advised that should claim 7 be found allowable, claim 18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.**

Applicant has withdrawn claims 6, 7, 17 and 18 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Claims 1-12 and 15 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Applicant has withdrawn claims 1-7 and 15 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007 and therefore Examiner's rejections under 35 USC 112 as they pertain to the withdrawn claims are now moot. Claims 8 and 12 were previously cancelled.

**regarding claim 9, the recitation "connected between each of the two end supports of each of the three or more fence modules" in lines 20-21 is misdescriptive since the means for pivot attachment is between the modules and not between the two end supports as the span members are connected therebetween. Further, "the perimeter fence" in line 23 lacks proper antecedent basis.**

Applicant has amended claim 9 to more clearly define that the means for pivot connection are on each of the end supports and that they are connected between the end supports of adjacent modules for forming a polygonal enclosure.

Applicant has replaced the term "the perimeter fence" with the term – the polygonal structure – which finds antecedent in the preamble of the claim.

**regarding claims 9 and 13, the recitation "inside" in claim 9, line 13, and claim 13, line 10 is a relative term, which renders the claim indefinite. The term "inside" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of**

Serial No. 10/773,250

Docket No. 2270-002

**ordinary skill in the art would not be reasonable apprised of the scope of the invention. In other words, what is considered inside when no relationship has been defined to the outside. Further, note that the supports have not been defined as being parallel to each other such that the inside is defined between the supports as claim 1 has been amended.**

Applicant has amended claim 9 to more clearly define that the end supports are spaced in substantially parallel arrangement and an inside space is defined therebetween. Applicant believes that one of skill in the art would clearly understand the inside to be the space between the spaced end supports.

Applicant believes that claims 9-11 and 13-14 are in condition for allowance.

Further Applicant has added new claims 19-22 for consideration. Applicant believes that the new claims depend from claims which are in condition for allowance and therefore also in condition for allowance.

**Examiner has rejected claim 1 under 35 USC 102(b) as being anticipated by Lape, 257,168.**

Applicant has withdrawn claim 1 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Examiner has rejected claim 1 under 35 USC 102(b) as being anticipated by McKinnon, 1,545,909.**

Applicant has withdrawn claim 1 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Examiner has rejected claim 15 under 35 USC 103(a) as being unpatentable over Lape, 257,168.**

Applicant has withdrawn claim 15 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Serial No. 10/773,250

Docket No. 2270-002

**Examiner has rejected claims 15 and 16 under 35 USC 103(a) as being unpatentable over McKinnon, 1,545,909.**

Applicant has withdrawn claims 15 and 16 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Examiner has rejected claim 2, 6, 16 and 17 under 35 USC 103(a) as being unpatentable over Lape, 257,168, as applied to claim 1, and further in view of Kummerlin et al. 4,502,564.**

Applicant has withdrawn claims 2, 6, 16 and 17 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Examiner has rejected claims 3, 4 and 8 under 35 USC 103(a) as being unpatentable over McKinnon, 1,545,909, as applied to claim 1, and further in view of Faught 300,455.**

Applicant has withdrawn claims 3 and 4 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Claim 8 was previously cancelled.

**Examiner has rejected claim 5 under 35 USC 103(a) as being unpatentable over McKinnon, 1,545,909 in view of Faught 300,455, as applied to claims 3, 4, and 8 and further in view of Walter 197,806.**

Applicant has withdrawn claim 5 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

**Examiner has rejected claim 6 under 35 USC 103(a) as being unpatentable over McKinnon, 1,545,909 in view of Neely 1,214,705.**

Applicant has withdrawn claim 6 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Serial No. 10/773,250

Docket No. 2270-002

**Examiner has rejected claims 7 and 8 under 35 USC 103(a) as being unpatentable over McKinnon, 1,545,909, as applied to claim 1, in view of St. John 5,533,714.**

Applicant has withdrawn claim 7 from consideration in this application for prosecution in continuation application 11/746,791, filed May 10, 2007.

Claim 8 was previously cancelled.

Reconsideration and allowance of claims 9-11, 13-14 and 19-22 is respectfully requested.

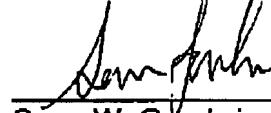
Date:

May 11/07

Via facsimile to 1-571-273-8300

Goodwin McKay  
222 Parkside Place  
602-12<sup>th</sup> Avenue S.W.  
Calgary, AB T2R 1J3  
Phone (403) 203-0107  
Fax: (403) 203-0403

Respectfully submitted,



Sean W. Goodwin  
Registration # 39,568  
Customer No. 27522